**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 6860 of 1988**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**MADHU BINDU JAYSHANKER VYAS - Petitioner(s)**

**Versus**

**KRISHNA CHANDRA SAGAR & 1 - Respondent(s)**

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**Appearance :**
SERVED BY AFFIX.(N) for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 19/10/2005**

**ORAL JUDGMENT**

1.Though served, nobody appears on behalf of the petitioner and the matter is of 1988. Therefore, this court has no other alternative but to decide and dispose of the matter ex parte on merits on the basis

of the material available on record.

2. In this petition under Articles 226 and 227 of the Constitution, the petitioner has challenged the legality and validity of the judgment and order passed by the Urban Land Tribunal (for short “the Tribunal”)dated 2-8-88 passed in Appeal No.11/88 in dismissing the same and confirming the order passed by the Competent Authority and Deputy Collector, ULC, Jamnagar dated 21-4-88 in dismissing the application submitted by the petitioner - original land owner for sanctioning the scheme under Section 21(1) of the Urban Land (Ceiling and Regulations) Act, 1976 (for short “the Act”).

3. It appears from the record that the petitioner was the owner of the land in question. She submitted an application for sanctioning the scheme under Section 21(1) of the Act on 17-12-87. The Competent Authority and Deputy Collector, ULC, Jamnagar issued a notice upon the petitioners on 30-1-88 and the petitioner was required to show cause why the said application should not be rejected as the relevant documents in support of the application has not been furnished and the land in question is already declared as excess land and the proceedings upto Section 10(3) of the Act has already

been issued. The petitioner appeared through her advocate and submitted that as against the order passed by the Competent Authority declaring the land in question as excess land, LPA was pending before the learned Single Judge of this court and it cannot be said that the land in question has already declared as excess vacant land. It was also further submitted that in view of the pendency of the appeal before this court, they could not submit a scheme within stipulated time as contemplated under Section 21 read with rule. Considering the statement made on behalf of the petitioner and considering the fact that the petitioner has not submitted a scheme within stipulated time i.e. within 1139 days form the date on which the Act of 1976 came into force and that along with the scheme the petitioner has not produced other documents except the plan and also in view of the fact that the land in question was already declared as excess vacant land, the Competent Authority and Deputy Collector, ULC, Jamnagar by its order dated 21-4-88 rejected the application submitted by the petitioner for sanctioning the scheme under Section 21(1) of the Act. Being aggrieved by and dissatisfied with the order passed by the Competent Authority and Deputy Collector, ULC,

Jamnagar dated 21-4-88, petitioner preferred appeal before the Tribunal being appeal No.11/88 and the Tribunal by its judgment and order dated 2-8-88 has dismissed the said appeal. Being aggrieved by and dissatisfied with the order passed by the Tribunal dated 2-8-88 passed in Appeal No.11/88, the petitioner has preferred the present Special Civil Application under Articles 226 and 227 of the Constitution of India.

4. It is not in dispute that the application came to be submitted by the petitioner for sanctioning the scheme under Section 21(1) of the Act on 17-12-87 i.e. after a period of 1139 days and as per the provision of the ULC Act as well as the rules and regulation, the declarant is required to submit an application under Section 21 of the Act within a period of 1139 days from the date of coming into force of the Urban Land Ceiling Act, therefore, admittedly the application submitted by the petitioner was beyond the prescribed time. It appears from the record that the petitioner has not produced any documents in support of her application. It also emerges from the record that the declaration under Section 6(1) of the Act was disposed of and the land in question was declared as excess vacant land, which came

to be confirmed by the High Court and considering the aforesaid facts and circumstances, more particularly considering the fact that application under Section 21 of the Act was submitted after a prescribed period and the necessary documents were not supplied and or annexed with the application and the application is rejected, which is confirmed by the High Court it cannot be said that there is any illegality committed by both the authorities below.

5. Under the circumstances, no case is made out to interfere with the order passed by both the authorities below and there is no substance in the present Special Civil Application and the same is required to be dismissed and is accordingly dismissed. Rule is discharged. However, there will be no order as to costs.

(M.R.SHAH,J)

Shekhar/-